

These comments are supplemental to the letter submitted March 26, 2008 on behalf of the membership of the California Grape and Tree Fruit League. After hearing further discussion on the part of both proponents and opponents, they are intended to clarify and expand as well as summarize key points related to the rationale why the creation of an allowance for table grape shatter is reasonable and proper.

- 1) Recognition of the evolution in consumer containers ? There can be little disagreement that the primary reason for originally classifying shatter as a defect relates first and foremost to the outdated and little used practice of selling grape bunches in a "plain pack" or "lugs". Now that the overwhelming majority of table grapes are sold in bags and clamshells (to which this proposed amendment is strictly limited to) shatter should be viewed differently in fairness to all parties.
- 2) Unfair economic advantage when failing to meet grade - The perception on the part of a clear majority of growers/shippers that without some recognition of the fact that consumers are now buying shattered berries (with a favorable perception given no other defects) in bags and clamshells while shatter remains the number one cause for failure to grade to US Number 1 there remains an unfair economic advantage. Grower/shippers are most often than not put at the mercy of the buyer when failing to make grade and resulting adjustments mean the loss of hundreds of thousands of dollars during a typical season. These economic adjustments are simply not passed along to the consumer.
- 3) Confirmation of positive consumer attitudes ? Detailed consumer research has confirmed that the primary key to consumer acceptance with low to medium amounts of shatter is the "healthy" appearance of the berry, i.e. a whole and sound berry that is free of other visible defects; not just the fact of whether the berry is attached to the stem. As one of our grower members pointed out that they are now receiving orders for de-stemmed grape berry snack packs. Using the current regulation that all shatter is a defect does that mean someone is buying a 100% defective product? Of course not.
- 4) Shattered berries that are defective will still be scored ? The USDA proposal to establish a 5% allowance does not change or increase the allowed presence of defective grapes. A defective berry, whether it is decay or wet and sticky, etc and whether it is attached to the stem or not, will still be counted as a defect and the twelve percent level to grade US No. 1 remains unchanged. Also the argument against the proposal using "Good delivery" standards as opposed to using "US No. 1" standards for delivery seem to be mostly for effect rather than a reflection of the majority of transactions in the marketplace.
- 5) Grower/shipper economic responsibility for length of handling time is unfair ? The primary argument against the establishment of a shatter allowance is that there is an increased probability that quality over time will be decreased for detached berries and those detached berries could become defective. This is especially applicable to wholesalers where the time from the field to final retail establishment may be longer. However, to hold the grower/ shipper essentially responsible for the uncertainties in the distribution of grapes after they have changed title is fundamentally unfair. The purpose of inspection standards is to make an objective measurement at a specific point in time and place in a transaction. To view detached berries as a defect at time of sale just because of increased probability over time to become a defect then means that inspection becomes a subjective process and in fact has implications for a multitude of other commodities.
- 6) The USDA proposal is a true compromise that appropriately begins to view shatter as different from other defects ? While I admit that some grower/shippers question whether shatter in and of itself should be a defect at all (see de-stemmed comment above), I believe that the majority of table grape growers agree, that as the consumer research showed, high levels of shatter can begin to have a negative impact on consumers. That research also showed there was no consumer recognition in distinguishing between low amounts of shatter in the 7% to 10% range. This was part of our rationale in the previous proposal of a

10% allowance. Also since we are only targeting bags and clamshells I would challenge any statements that say consumers can actually determine with any amount of accuracy the true amount of a shatter in that bag or clamshell. The key to consumer acceptance, as previously stated, is the appearance of those berries. The current USDA proposal of a 5% allowance, while less than what some grower/shippers feel is appropriate, is in the final analysis a compromise between competing points of view. Consumer research has shown that shatter is viewed as fundamentally different from other types of visible defects. In viewing shatter as a defect, whether actual or potential, it should be weighted differently from defects that make a berry unattractive to eat and that winds up in the garbage. This compromise recognizes that fact. Absolutely no one wants to weaken grading standards and negatively impact table grape sales. This compromise proposal on the part of USDA is small enough to assure no negative impact to consumers while fundamentally recognizing the changes that have occurred in packaging over the past two decades. In addition, while there is no denial that the ability to re-negotiate pricing on some loads may be impacted, I don't believe this proposal will have a material impact on handlers of table grapes. In summary, this proposal begins to restore some sense of fairness to properly weighting and viewing shatter as a different kind of defect while still maintaining the integrity of the current inspection system. Given the changes in the industry, I do not believe that maintaining the status quo is a reasonable outcome. Our members support the USDA proposal and encourage its implementation at the earliest point in time. Thank you for allowing us the opportunity to further comment.